

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Board of Patent Appeals and Interferences

Appellants: Tamisha Clark)
Barry H. Chilton)
) Group Art Unit:
Serial No.: 10/783,910) 1774
)
Filed: February 20, 2004)
)
For: MEDICAL DEVICE WITH)
ADHERENT COATING,)
AND METHOD FOR)
PREPARING SAME) Examiner: Jill M. Gray
)
Docket No.: 3010-1091)

REPLY BRIEF FOR CLARK AND CHILTON

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This is in reply to the Examiner's Answer mailed July 9, 2008.

This Reply Brief will reply to remarks contained in the section of the Examiner's Answer labeled "(10) Response to Argument". In this section, the Examiner continues to assert that Palermo, U.S. Patent No. 6,139,510, inherently achieves the claimed feature of "a fluoropolymer coating including an etched carbonaceous surface, said etched carbonaceous surface including oxygen-containing organic groups formed at positions at which fluorine atoms of said fluoropolymer coating have been removed".

To make this assertion, the Examiner has cited portions of Palermo that concern applying a tie layer to the guidewire. The Examiners states that "this treatment is done by exposing the guidewire to hydrocarbon plasma that can contain gaseous fluorocarbons resulting in a hydrocarbon or fluorocarbon residue. See column 12, line 26 through column 13, and line 30. It is the Examiner's position that the plasma deposition resulting in a residue of fluorocarbon material is indicative of an 'etched carbonaceous surface'". Further on this point, the Examiner states that "...Palermo discloses forming the hydrocarbaceous tie layer using a plasma stream in a Plasma Etch apparatus wherein said layer is a hydrocarbon or fluorocarbon residue. It is the Examiner's position that based upon this teaching the skilled artisan would have immediately envisaged the tie layer being etched and having some degree of modification to the structure."

From these statements, it appears that the Examiner's position is that when a fluorocarbon polymer layer is formed by plasma polymerization, it is necessarily the equivalent of a fluorocarbon coating that has been etched to form a carbonaceous surface including oxygen containing organic groups formed at positions at which fluorine atoms have been removed. It appears that the Examiner's basis for saying this is that the polymerization is conducted in a "Plasma Etch" device. However, even the Palermo reference defies this attempted reasoning.

The Palermo reference clearly distinguishes between an etching procedure and a subsequently-conducted polymerization procedure. Looking at column 12, line 65, to column 13, line 2, Palermo states that "[t]he procedure is described as follows: the

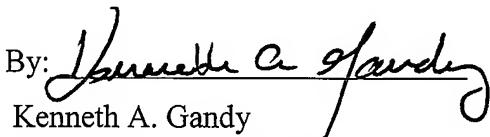
guidewire core in placed is a plasma chamber and cleaned with an oxygen plasma etch. The guidewire core is then exposed to a hydrocarbon plasma to deposit a plasma-polymerized tie layer on the guidewire core to complete the pretreatment." Thus, Palermo describes using the plasma chamber to conduct two independent processes. First, the guidewire core is processed under conditions to etch it. Second, the plasma chamber is then used for a plasma polymerization of a suitable monomer. There is absolutely no statement here that the plasma polymerization etches any surface or polymer. Rather, this reference is no more than a teaching of a well-known way to initiate polymerization of a material to form a polymer.

Consistently, the Palermo examples describe using the plasma chamber to conduct separate etching steps with oxygen, and plasma-polymerization steps with methane or ethane. No mention is made that the plasma polymerization steps lead to etching of the applied tie layer.

In view of the foregoing, it is clear that the Examiner not provided any sound technical reasoning as to why the Palermo reference necessarily leads to the claimed features, as required when basing a rejection on inherency. In fact, the Palermo reference itself contains teachings otherwise, as pointed out in the original BRIEF FOR CLARK AND CHILTON. That a monomer material is subject to plasma polymerization does not mean that it forms an etched carbonaceous surface including oxygen containing organic groups at positions at which fluorine atoms have been removed.

Accordingly, the rejection of Claims 1-8, 10-12, 14-16, 22-24, and 26 under 35 U.S.C.102(b) or, in the alternative, under 35 U.S.C. 103(a), is erroneous. Its reversal is therefore respectively solicited.

Respectfully Submitted,

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